

REMARKS

Claims 22-59 are pending in the Application. New claims 60-73 are added by this amendment. Claims 22, 28, 29, 36, 43, 47, 51 and 60 are independent claims. Claims 23-27, 30-35, 37-42, 45 and 46, 48-50, 52-59 and 61-73 depend, respectively, from independent claims 22, 29, 36, 43, 47, 51 and 60, respectively. The Applicants respectfully request reconsideration of the pending claims 22-59, and consideration of new claims 60-73, in light of the following remarks.

Amendments to the Claims

Claim 43 has been amended to correct noted minor typographical errors. The Applicants respectfully submit that these amendments do not add new matter.

Rejections of Claims

Non-Statutory Obviousness-Type Double Patenting

Claims 22, 28, 29, 36 and 47 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 22 and 52 of co-pending Application No. 10/759,969 (hereinafter, "Kubler"). Applicants note that although claim 43 is not listed on page 2 of the Office action as being included in double patenting rejection, claim 43 is addressed as such. (Office action, page 3, line 20 to page 4, line 14) Applicants assume that claim 43 was unintentionally omitted from the list of rejected claims, and is provisionally rejected on the ground of nonstatutory obviousness-type double patenting.

Claim 51 was provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 22 of co-pending Application No. 10/759,969 (hereinafter, "Kubler") in view of Weaver et al. (US 5,956,673, hereinafter "Weaver").

Applicants do not agree with the Examiner's rejection, but nevertheless are submitting a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(c), disclaiming the terminal part of this application that extends beyond the expiration date of any patent granted on commonly owned U.S. Patent Application No. 10/759,969, to obviate the double patenting rejection. Applicants respectfully submit that the obviousness-type double patenting rejection is overcome.

Rejections Under 35 U.S.C. §103(a)

Claims 22, 27-29, 32, 35, 36, 39, 42, 47, 50, 51 and 54 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weaver in view of Drakopoulos et al. (US 5,506,848, hereinafter "Drakopoulos"). The Applicants respectfully traverse the rejection.

With regard to an obviousness rejection, MPEP 2142 states that in order for a prima facie case of obviousness to be established, three basic criteria must be met, one of which is that the reference or combination of references must teach or suggest all the claim limitations. Further, MPEP 2143.01 states that "the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art suggests the desirability of the combination", and that "although a prior art device 'may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so'" (citing *In re Mills*, 916 F. 2d 680, 16 USPQ 2d 1430 (Fed Cir. 1990)). Moreover, MPEP 2143.01 also states that the level of ordinary skill in the art cannot be relied upon to provide the suggestion..., citing *Al-Site Corp. v. VSI Int'l Inc.*, 174 F. 3d 1308, 50 USPQ 2d. 1161 (Fed Cir. 1999).

Regarding claims 22, 28, 29, 36, 47 and 51, the Applicants respectfully submit that the proposed combination of references does not teach, suggest, or disclose, for example, "...wherein the digital voice data packets comprise destination information used for routing the digital voice data packets...", as recited in claims 22 and 28; "...wherein the digital voice data packets comprise destination information used for routing the digital voice data packets through the communication network...", as recited in claim 29; "...wherein the digital voice data is packetized according to a packet protocol comprising destination information used for routing the digital voice data packetized according to the packet protocol through the communication network...", as recited in claim 36; and "...wherein the digital voice packets comprise destination information used for routing the digital voice packets through the network...", as recited in claims 47 and 51. The Office action states that Weaver discloses wherein the digital voice data packets comprise information used for routing the digital voice data packets (see FIG. 3, 4, 9; voice packets comprise control/signaling information; see col. 3, line 20-40; see col. 5, line 34-46; see col. 6, line 52-65)." (Office action, page 7, lines 4-6) The Applicants respectfully disagree. Instead, Weaver teaches the use of one or more bits of PCM octets carried over a circuit switched network, as a means of signaling the presence of and the possible

enabling/disabling of vocoders, to avoid tandem vocoding. (FIG. 1, col. 1, line 66 to col. 2, line 52) Any signaling that takes place has nothing to do with routing of packets, and does not represent information used for routing digital voice packets. In fact, Weaver fails to teach anything with respect to the routing of voice packets.

The Applicants appreciate recognition in the Office action that Weaver does not explicitly disclose destination information. (Office action, page 7, line 7) The Office action alleges, however, that "...it is well known in the art when forming and routing packets/frames over the network to remote end/destination, one **must** use destination address/number/information to route." (emphasis added) (Office action, page 7, lines 7-9) Applicants respectfully disagree, and submit that the use of digital voice data packets/digital voice packets comprising destination information for routing digital voice data packets/digital voice packets is not well known in the context of the elements as recited in independent claims 22, 28, 29, 36, 47 and 51, and certainly was not well known at the time of Applicants' invention. If the Examiner maintains this rejection, Applicant requests that the Examiner cite a prior art reference that specifically shows what the Examiner alleges is well known.

The Office action submits that Drakopoulos teaches "...wherein the digital voice packets comprise destination information (i.e., signaling/control information) used for routing the outgoing digital voice packets (see col. 5, line 31-42; using the address of the destination end user in voice packet for routing through the wireless network)." (Office action, page 7, lines 9-12) The Applicants respectfully disagree. To the contrary, Drakopoulos teaches a circuit switch-type system in which the contents of packets containing data or voice information is not used for routing the packet from source to destination. (See, for example, col. 6, lines 40-54) Instead of teaching "...wherein the digital voice data packets comprise destination information used for routing the digital voice data packets...", as recited in Applicants' claims 22 and 28; "...wherein the digital voice data packets comprise destination information used for routing the digital voice data packets through the communication network...", as recited in Applicants' claim 29; "...wherein the digital voice data is packetized according to a packet protocol comprising destination information used for routing the digital voice data packetized according to the packet protocol through the communication network...", as recited in Applicants' claim 36; and "...wherein the digital voice packets comprise destination information used for routing the digital voice packets through the network...", as recited in Applicants' claims 47 and 51,

Drakopoulos teaches circuit switching based upon "...a reservation request that preferably includes a location address of the source end user (that is, the mobile terminal 216 who is preparing the reservation request), a location address of the destination end user, and the type of service requested (voice or data)." (col. 5, lines 34-38) The Applicants respectfully submit that the "reservation request" of Drakopoulos is different from, and fails to teach or suggest a digital voice data packet/digital voice packet, as recited in Applicants' claims 22, 28, 29, 36, 47 and 51.

Based at least upon the above, Applicants respectfully submit that the proposed combination of Weaver and Drakopoulos fails to teach or suggest all of the limitations of Applicants' claims 22, 28, 29, 36, 47 and 51, as required by MPEP §2131, and that a rejection under 35 U.S.C. §103(a) cannot be maintained.

Therefore, for at least the above stated reasons, the Applicants respectfully submit that claims 22, 28, 29, 36, 47, 51 are allowable over the proposed combination of Weaver and Drakopoulos. Claims 23-27, 30-35, 37-42, 48-50 and 55-59, and 52-54 depend either directly or indirectly from claims 22, 29, 36, 47 and 51. Because claims 23-27, 30-35, 37-42, 48-50 and 55-59, and 52-54 depend, respectively, from claims 22, 29, 36, 47 and 51, Applicants respectfully submit that claims 23-27, 30-35, 37-42, 48-50 and 55-59, and 52-54 are also allowable over the proposed combination of references, as well. The Applicants respectfully request that the rejection of claims 22, 27-29, 32, 35, 36, 39, 42, 47, 50, 51 and 54 under 35 U.S.C. §103(a), be withdrawn.

Claims 23, 24, 30, 31, 37, 38, 48, 49, 52 and 53 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weaver in view of Drakopoulos, as applied to claims 22, 29, 36, 47 and 51 above, and further in view of Perkins (US 5,159,592). The Applicants respectfully traverse the rejection. The Applicants respectfully submit that claims 23 and 24, claims 30 and 31, claims 37 and 38, claims 48 and 49, and claims 52 and 53 depend either directly or indirectly from independent claims 22, 29, 36, 47 and 51, respectively. Applicants believe that independent claims 22, 29, 36, 47 and 51 are allowable over the proposed combination of references, in that the proposed combination of references fails to overcome the deficiencies of Weaver and Drakopoulos. Because claims 23 and 24, claims 30 and 31, claims 37 and 38, claims 48 and 49, and claims 52 and 53 depend, respectively, from claims 22, 29, 36, 47 and 51, the Applicants respectfully submit that dependent claims 23 and 24, claims 30 and 31, claims 37

and 38, claims 48 and 49, and claims 52 and 53 are allowable over the proposed combination of references, for at least the reasons set forth above with respect to claims 22, 29, 36, 47 and 51, respectively. Therefore, the Applicants respectfully request that the rejection of claims 23, 24, 30, 31, 37, 38, 48, 49, 52 and 53 under 35 U.S.C. §103(a) be withdrawn.

Claims 43 and 46 were rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver in view of Harrison et al. (US 5,796,727, hereinafter "Harrison"). The Applicants respectfully traverse the rejection.

With regard to amended claim 43, the Applicants respectfully submit that the proposed combination of Weaver and Harrison fails to teach, suggest, or disclose, for example, a system for processing voice for communication over a network comprising a processing circuit for managing the packetization of digital voice data to provide digital voice data packets and for managing the depacketization of digital voice data packets, the processing circuit packetizing the digital voice data according to a packet protocol, wherein the digital voice data packets comprise destination information used for routing the digital voice data packets through the network; a transceiver for wireless transmission and wireless reception of the digital voice data packets; and a media access controller for controlling the operations of the transceiver to transmit and receive information according to a wireless communication protocol. The Office action states that Weaver discloses "...wherein the digital voice data packets comprises [sic] information used for routing the digital voice data packets (see FIG. 3, 4, 9; voice packets comprise control/signaling information; see col. 3, line 20-40; see col. 5, line 34-46; see col. 6, line 52-65)." (Office action, page 10, line 21 to page 11, line 3) Applicants respectfully disagree. Instead, Weaver teaches the use of one or more bits of PCM octets carried over a circuit switched network, as a means of signaling the presence of and the possible enabling/disabling of vocoders, to avoid tandem vocoding. (FIG. 1, col. 1, line 66 to col. 2, line 52) Any signaling that takes place has nothing to do with routing of packets, and does not represent information used for routing digital voice packets. In fact, Weaver fails to teach anything with respect to the routing of voice packets.

The Applicants appreciate recognition in the Office action that Weaver does not explicitly disclose destination information. (Office action, page 11, line 8) The Office action alleges, however, that Harrison teaches "...wherein the digital voice packets (see col. 4, line 45-49; 65 to col. 5, line 7; packets of voice data) comprise destination used for routing the outgoing

digital voice packets (see FIG. 5; MS adding destination address into packet; see col. 6, line 5-12; see col. 7, line 35 to col. 8, line 15; see col. 12, line 39-61).” (Office action, page 11, lines 9-12) The Applicants respectfully disagree. The Applicants respectfully submit that the cited teachings apply to data, not voice, and that Harrison fails to disclose that the teachings of FIG. 5 apply to the handling of voice. Making reference to the MTSO’s 26 and 28, Harrison states that “[t]he switch serves to route packets of (voice) data between the various cells 2, 4, 6, 8 and 10 and the PSTN 30.” (col. 4, lines 45-48) As can be seen in FIG. 2 of Harrison, the voice information wirelessly received by the MTSO 43 does not pass through the MDSC 42, but instead flows to and from the PSTN 45. The Applicants respectfully submit that the cited passage of Harrison (col. 7, line 35 to col. 8, line 15) describes the handling of data packets, not voice packets. Applicants also respectfully submit that the illustrations of FIG. 5 of Harrison apply to data packets processed by the MDSC 42, and not to voice packets processed by the MTSO 43. Harrison fails to teach that the MS “...adds destination address into packet” applies to a voice packet, as alleged in the Office action. (Office action, page 11, lines 11 and 12) The cited passage describing FIG. 5 of Harrison (col. 12, lines 39-61) teaches operation of the Mobile Data Service Controller (MDSC), element 42 of FIG. 2 of Harrison, not the MTSO 43 of FIG. 2, which handles voice information. Applicants therefore respectfully submit that neither Harrison nor Weaver teach wherein the digital voice data packets comprise destination information used for routing the digital voice data packets through the network, as recited by Applicants claim 43, that the proposed combination of Weaver and Harrison fail to teach or suggest all of the limitations of claim 43, and that a rejection of claim 43 under 35 U.S.C. 103(a) cannot be maintained.

Therefore, for at least the above stated reasons, the Applicants respectfully submit that claim 43 is allowable over the proposed combination of Weaver and Harrison. Claims 44-46 depend either directly or indirectly from claim 43. Because claims 44-46 depend from claim 43, Applicants respectfully submit that claims 44-46 are also allowable over the proposed combination of references, as well. The Applicants respectfully request that the rejection of claims 43 and 46 under 35 U.S.C. §103(a), be withdrawn.

Claims 44 and 45 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weaver in view of Harrison, as applied to claim 43 above, and further in view of Perkins (US

5,159,592). The Applicants respectfully traverse the rejection. The Applicants respectfully submit that claims 44 and 45 depend either directly or indirectly from independent claim 43. Applicants believe that independent claim 43 is allowable over the proposed combination of references, in that the proposed combination of references fails to overcome the deficiencies of Weaver and Harrison, as set forth above. Because claims 44 and 45 depend from claim 43, the Applicants respectfully submit that dependent claims 44 and 45 are allowable over the proposed combination of references, for at least the reasons set forth above with respect to claim 43. Therefore, the Applicants respectfully request that the rejection of claims 44 and 45 under 35 U.S.C. §103(a) be withdrawn.

Claims 25, 33, 40 and 55-59 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weaver in view of Drakopoulos, as applied to claims 22, 29, 36 and 47 above, and further in view of Cripps (US 5,838,730). The Applicants respectfully traverse the rejection. The Applicants respectfully submit that claims 25, 33, 40 and 55-59 depend either directly or indirectly from independent claims 22, 29, 36 and 47, respectively. Applicants believe that independent claims 22, 29, 36 and 47 are allowable over the proposed combination of references, in that the proposed combination of references fails to overcome the deficiencies of Weaver and Drakopoulos, as set forth above. Because claims 25, 33, 40 and 55-59 depend, respectively, from claims 22, 29, 36 and 47, the Applicants respectfully submit that dependent claims 25, 33, 40 and 55-59 are allowable over the proposed combination of references, for at least the reasons set forth above with respect to claims 22, 29, 36 and 47, respectively. Therefore, the Applicants respectfully request that the rejection of claims 25, 33, 40 and 55-59 under 35 U.S.C. §103(a) be withdrawn.

Claims 26, 34 and 41 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weaver in view of Drakopoulos, as applied to claims 22, 32 and 52 above, and further in view of Honig et al. (US 5,481,533, hereinafter "Honig"). The Applicants respectfully traverse the rejection. The Applicants respectfully submit that claims 26, 34 and 41 depend from independent claims 22, 29 and 36, respectively. Applicants believe that independent claims 22, 29 and 36 are allowable over the proposed combination of references, in that the proposed combination of references fails to overcome the deficiencies of Weaver and Drakopoulos, as set

forth above. Because claims 26, 34 and 41 depend, respectively, from claims 22, 29 and 36, the Applicants respectfully submit that dependent claims 26, 34 and 41 are allowable over the proposed combination of references, for at least the reasons set forth above with respect to claims 22, 29 and 36, respectively. Therefore, the Applicants respectfully request that the rejection of claims 26, 34 and 41 under 35 U.S.C. §103(a) be withdrawn.

Newly Added Claims

Applicants have added new claims 60-73, which are similar in many respects to existing claims 22-59. New claim 60 is an independent claim, while new claims 61-73 depend, either directly or indirectly, from claim 60. Applicants respectfully submit that new claims 60-73 do not add new matter.

Conclusion

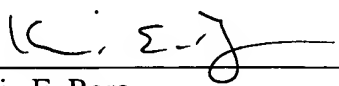
The Applicants believe that all of pending claims 22-73 are in condition for allowance. Should the Examiner disagree or have any questions regarding this submission, the Applicants invite the Examiner to telephone the undersigned at (312) 775-8000.

A Notice of Allowability is courteously solicited.

The Commissioner is hereby authorized to charge any additional fees required by this communication, or credit any overpayment, to Deposit Account No. 13-0017.

Respectfully submitted,

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